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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,711	03/19/2001	Mustafa Erhan Say	517.1001	9478
7590	03/27/2006			
Cary S. Kappel 14th Floor 485 Seventh Avenue New York, NY 10018			EXAMINER FISCHER, ANDREW J	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/811,711

Applicant(s)

SAY, MUSTAFA ERHAN

Examiner

Andrew J. Fischer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Claim Rejections - 35 USC §102***

Claims 7-11 and 21-50, as understood by the Examiner, are rejected under 35 U.S.C. §102(e) as being anticipated by Atkinson et. al. (U.S. 2001/0039528 A1)(“Atkinson ‘528”). Atkinson ‘528 discloses the claimed invention including a first plurality of bidders (the bidders in round 1) and a second plurality of bidders (the bidders of round 1 who make it to round two). Atkinson ‘528 also discloses how each bidder may have their bid considered one at a time.



Claim Rejections - 35 USC §103

Claims 7-50, as understood by the Examiner, are alternatively rejected under 35 U.S.C. §103(a) as being unpatentable over Fisher et. al. (U.S. 5,835,896)(“Fisher”) in view of Sheehan et. al. (U.S. 2001/0049647 A1)(“Sheehan”). Fisher discloses the claimed invention including initiating and concluding the auction. Fisher does not directly disclose a second or final round of bidding to form a final bidders set. Sheehan teaches the use of a final bidders set (i.e. various auction rounds).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Fisher at taught be Sheehan to include a final bidders set. Such a modification would have allowed goods and services to find a quick and ready market by focusing on buyers who are more than casual visitors.

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Response to Arguments

Applicant's arguments filed March 21, 2005 have been fully considered but they are not persuasive. The Examiner notes that *e.g.* regarding the "designating" step in claim 7, this is not limited to a single round. Applicant seems to be arguing that the claim recites that each one of the second plurality of bidders is designated only once. If such language was in the claim, Applicant's arguments may be persuasive. However the claims ^{are} ~~is~~ considered open because of the transitional phrase "comprising." The "designating" is not limited to a single round or even a single instance of polling ("designating, in turn") one of the second plurality of bidders. If Applicant adds this limitation, the Examiner agrees that such language will most likely overcome the rejections of record. In other words, Applicant seems to be arguing that "designating, in turn" is more than a linear designation. The Examiner suggests expanding upon what precisely is "designating, in turn." Can a single bidder be designated more than once before another bidder has one designation? In a broad sense, in a linear form of "designating," why aren't all "designations" therefore "in turn?"  

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Fischer whose telephone number is (571) 272-6779.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script, followed by the date 3/17/06.

Andrew J. Fischer
Primary Examiner
Art Unit 3627

AJF
March 17, 2006